

DOJ's response on injunction ruling of Court of First Instance

In response to media enquiries today (January 21), a spokesman for the Department of Justice said the following:

"Mr Justice Hartmann of the Court of First Instance delivered his judgment ('Judgment') this morning, ordering that the interim injunction granted by Mr Justice Fung on January 10, 2008, which restrained the Defendants from unlicensed broadcasting, not be continued.

We are considering the Judgment.

As have been submitted before the Court, the injunction was applied for out of public interest. As Mr Justice Hartmann pointed out in his Judgment, the Telecommunications Ordinance (Cap.106) creates a public right to have the radio spectrum managed in a way that ensures the safety and well-being of the community, and the Secretary for Justice is the guardian of that right. The Defendants themselves also fully accept that there must be an orderly and rational control of the radio spectrum.

As regards the appeal by way of case stated against the Magistrate's ruling on unconstitutionality, it has already been commenced and will be proceeded with expeditiously.

Pending the appeal, sections 8 and 23 and other relevant offences under the Telecommunications Ordinance are valid and enforceable by the criminal law. The Office of the Telecommunications Authority will continue to take appropriate action to enforce the law pursuant to the Telecommunications Ordinance.

We will continue with the contempt proceedings already taken out. As observed by Mr Justice Hartmann in his Judgment, if it is shown that any of the Defendants have acted in contempt of Mr Justice Fung's injunction order they will be held accountable and unless the integrity of our judicial system is honoured, the Court will be unable to afford the very protection that the Defendants themselves have sought from it."

Ends/Monday, January 21, 2008